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11 Mandalay Corp. d/b/a/ Mandalay Bay Resort and Casino

12 UNITED STATES DISTRICT COURT
13 DISTRICT OF NEVADA

14 PAUL OPROMOLLO, an individual
15 Plaintiff,

16 vs.

17 MANDALAY CORP. d/b/a MANDALAY
18 BAY RESORT AND CASINO;
19 DOES 1 through 10 inclusive; ROE
20 CORPORATIONS/ENTITIES 1 through
21 10 inclusive,

22 Defendants.

Case No. 2:17-cv-01409-RFB-VCF

~~[PROPOSED]~~ STIPULATION AND
ORDER TO STAY DISCOVERY FOR A
PERIOD OF 60 DAYS

[First Request]

23 Plaintiff Paul Opromollo ("Plaintiff") and Defendant Mandalay Corp. d/b/a Mandalay Bay
24 Resort and Casino, by and through their counsel of record, hereby stipulate to stay discovery for a
25 period of sixty (60) days.

26 Counsel for Plaintiff and Defendant held a Rule 26(f) conference on August 3, 2017. In the
27 Rule 26(f) conference, it was discussed and agreed that a stay of discovery was warranted in this
28 matter in light of the parties having commenced settlement discussions which could result in early
resolution of the matter. Additionally Defendant has filed a Motion to Dismiss (ECF No. 6) that
may result in dismissal of some or all of Plaintiff's claims.

In assessing a request to stay discovery, the Court decides whether it is necessary to speed
the parties along in discovery or whether it is appropriate to delay discovery and spare the parties the

1 associated expense. *Tradebay, LLC v. Ebay, Inc.*, 278 F.R.D. 597, 603 (D. Nev. 2011). To make
2 this assessment, the Court takes a “preliminary peek” at the merits of the purportedly dispositive
3 motion, though, importantly, this “preliminary peek” does not prejudice the outcome of the motion, it
4 merely evaluates whether an order staying discovery is warranted. *Id.* The merits of the pending
5 motion will ultimately be determined by the District Judge who may have a different view than the
6 Magistrate Judge. *Id.*

7 Defendant’s Motion to Dismiss is the type warranting a stay of discovery as Defendant has
8 sought to dismiss all of Plaintiff’s claims. Accordingly, requiring the parties to conduct discovery
9 on claims that may be dismissed and may not be curable by amendment would cause an unnecessary
10 expense on the parties and potentially log the Court’s docket with unnecessary discovery disputes on
11 these claims. Additionally, because Defendant moved to dismiss the entire case, Plaintiff has not
12 been apprised of which factual allegations Defendant intends to admit, and which Defendant intends
13 to deny. Nor has Plaintiff been apprised of the defenses Defendant intends to assert. Plaintiff
14 believes this would limit his ability to conduct full discovery while the Motion to Dismiss is
15 pending.

16 Plaintiff disputes the arguments made in Defendant’s Motion to Dismiss, but agrees that the
17 motion is of the type warranting a stay of discovery. Moreover, the parties have commenced
18 informal settlement discussions which may result in an early resolution of this case. This matter has
19 also been set for an early neutral evaluation conference on August 9, 2017. The parties wish to
20 divert efforts and resources toward the ENE before engaging in extensive discovery. Thus, it would
21 be appropriate to spare the parties the burden and expense of discovery in light of these reasons.
22 Therefore, the parties jointly request the Court stay discovery for sixty days.

23 The parties will re-visit the issue after sixty days to determine whether circumstances have
24 changed that might warrant commencing discovery or continuing the stay. Accordingly, the parties
25 request that discovery be stayed sixty days or until October 4, 2017, unless the Court rules on
26 Defendant’s Motion to Dismiss prior to that date. If the Court rules on the Motion to Dismiss prior
27 to October 4, 2017, and the complaint is not dismissed in its entirety, the parties will submit a
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1 stipulated discovery plan and scheduling order within 14 days of the Court's ruling on Defendant's
2 Motion. If the Court does not rule on Defendant's Motion to Dismiss prior to October 4, 2017 the
3 parties will conduct another discovery conference and either submit a stipulated discovery plan and
4 scheduling order, or a proposed stipulation for an additional stay of discovery.

5 Dated: August 4, 2017

6
7 MGM Resorts International

The Thater Law Group, P.C.

8
9 /s Amy Thompson

/s M. Lani Esteban-Trinidad

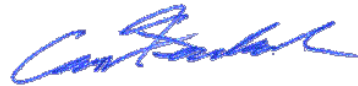
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M. LANI ESTEBAN-TRINIDAD, ESQ.
Attorney for Plaintiff Paul Opromollo

13 *Attorneys for Defendant*
Mandalay Corp. dba Mandalay Bay

14 IT IS SO ORDERED

15 Dated this 7th day of August 2017.

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19 United States Magistrate Judge